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(Original Signature of Member)

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. LAFALCE introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Home Ownership and Equity Protection Act of 1994 and other sections of the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Predatory Lending  
3 Consumer Protection Act of 2000”.

4 **SEC. 2. AMENDMENTS TO DEFINITIONS IN TRUTH IN LEND-**  
5 **ING ACT.**

6 (a) HIGH COST MORTGAGES.—

7 (1) IN GENERAL.—The portion of section  
8 103(aa) of the Truth in Lending Act (15 U.S.C.  
9 1602(aa)) that precedes paragraph (2) of such sec-  
10 tion is amended to read as follows:

11 “(aa) MORTGAGE REFERRED TO IN THIS SUB-  
12 SECTION.—

13 “(1) DEFINITION.—

14 “(A) IN GENERAL.—A mortgage referred  
15 to in this subsection means a consumer credit  
16 transaction—

17 “(i) that is secured by the consumer’s  
18 principal dwelling, other than a reverse  
19 mortgage transaction; and

20 “(ii) the terms of which are described  
21 in at least 1 of the following subclauses:

22 “(I) The transaction is secured  
23 by a first mortgage on the consumer’s  
24 principal dwelling and the annual per-  
25 centage rate on the credit, at the con-  
26 summation of the transaction, will ex-

1           ceed by more than 6 percentage  
2           points the yield on Treasury securities  
3           having comparable periods of maturity  
4           on the 15th day of the month imme-  
5           diately preceding the month in which  
6           the application for the extension of  
7           credit is received by the creditor;

8                       “(II) The transaction is secured  
9           by a junior or subordinate mortgage  
10          on the consumer’s principal dwelling  
11          and the annual percentage rate on the  
12          credit, at the consummation of the  
13          transaction, will exceed by more than  
14          8 percentage points the yield on  
15          Treasury securities having comparable  
16          periods of maturity on the 15th day of  
17          the month immediately preceding the  
18          month in which the application for the  
19          extension of credit is received by the  
20          creditor.

21                      “(III) The total points and fees  
22          payable on the transaction will exceed  
23          the greater of 5 percent of the total  
24          loan amount or \$1,000.

1           “(B) INTRODUCTORY RATES NOT TAKEN  
2 INTO ACCOUNT.—If the terms of any consumer  
3 credit transaction that is secured by the con-  
4 sumer’s principal dwelling offer, for any initial  
5 or introductory period, an annual percentage  
6 rate of interest which—

7                   “(i) is less than the annual percentage  
8 rate of interest which will apply after the  
9 end of such initial or introductory period;  
10 or

11                   “(ii) in the case of an annual percent-  
12 age rate which varies in accordance with  
13 an index, which is less than the current  
14 annual percentage rate under the index  
15 which will apply after the end of such pe-  
16 riod,

17 the annual percentage rate of interest that shall  
18 be taken into account for purposes of sub-  
19 clauses (I) and (II) of subparagraph (A)(ii)  
20 shall be the rate described in clause (i) or (ii)  
21 of this subparagraph rather than any rate in ef-  
22 fect during the initial or introductory period.”.

23           (2) TECHNICAL AND CONFORMING AMEND-  
24 MENT.—Section 103(aa)(2) of the Truth in Lending  
25 Act (15 U.S.C. 1602(aa)(2)) is amended—

1 (A) by striking subparagraph (B); and  
2 (B) by redesignating subparagraph (C) as  
3 subparagraph (B).

4 (b) POINTS AND FEES.—Section 103(aa)(4) of the  
5 Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is  
6 amended—

7 (1) by striking subparagraph (B) and inserting  
8 the following new subparagraph:

9 “(B) all compensation paid directly or indi-  
10 rectly by a consumer or a creditor to a mort-  
11 gage broker;”;

12 (2) by redesignating subparagraph (D) as sub-  
13 paragraph (F); and

14 (3) by striking subparagraph (C) and inserting  
15 the following new subparagraphs:

16 “(C) each of the charges listed in section  
17 106(e) (except an escrow for future payment of  
18 taxes and insurance);

19 “(D) the cost of all premiums financed by  
20 the lender, directly or indirectly, for any credit  
21 life, credit disability, credit unemployment or  
22 credit property insurance, or any other life or  
23 health insurance, or any payments financed by  
24 the lender, directly or indirectly, for any debt  
25 cancellation or suspension agreement or con-

1           tract, except that, for purposes of this subpara-  
2           graph, insurance premiums or debt cancellation  
3           or suspension fees calculated and paid on a  
4           monthly basis shall not be considered financed  
5           by the lender;

6           “(E) any prepayment penalty (as defined  
7           in section 129(c)(5)) or other fee paid by the  
8           consumer in connection with an existing loan  
9           which is being refinanced with the proceeds of  
10          the consumer credit transaction; and”.

11       (c) HIGH COST MORTGAGE LENDER.—

12           (1) IN GENERAL.—Section 103(f) of the Truth  
13       in Lending Act (15 U.S.C. 1602(f)) is amended by  
14       striking the last sentence and inserting “Any person  
15       who originates 2 or more mortgages referred to in  
16       subsection (aa) in any 12-month period, any person  
17       who originates 1 or more such mortgages through a  
18       mortgage broker or acted as a mortgage broker be-  
19       tween originators and consumers on more than 5  
20       mortgages referred to in subsection (aa) within the  
21       preceding 12-month period, and any creditor-affili-  
22       ated party shall be considered to be a creditor for  
23       purposes of this title.”.

24           (2) CREDITOR-AFFILIATED PARTY DEFINED.—

25       Section 103 of the Truth in Lending Act (15 U.S.C.

1       1602) is amended by adding at the end the following  
2       new subsection:

3       “(cc) CREDITOR-AFFILIATED PARTY.—The term  
4       “creditor-affiliated party” means—

5               (1) any director, officer, employee, or control-  
6       ling stockholder of, or agent for, a creditor;

7               (2) in the case of a creditor which is an insured  
8       depository institution, any other person who has  
9       filed or is required to file a change-in-control notice  
10      with the appropriate Federal banking agency under  
11      section 7(j) of the Federal Deposit Insurance Act;  
12      and

13              (3) any shareholder, consultant, joint venture  
14      partner, and any other person, including any inde-  
15      pendent contractor (such as an attorney, appraiser,  
16      or accountant), who participates in the conduct of  
17      the affairs of, or controls the lending practices of, a  
18      creditor, as determined (by regulation or on a case-  
19      by-case) by the appropriate Federal agency under  
20      subsection (a) or (c) of section 108 with respect to  
21      the creditor.”.

22   **SEC. 3. AMENDMENTS TO EXISTING REQUIREMENTS FOR**  
23                           **HIGH COST CONSUMER MORTGAGES.**

24       (a) ADDITIONAL DISCLOSURES.—Section 129(a)(1)  
25      of the Truth in Lending Act (15 U.S.C. 1639(a)(1)) is

1 amended by adding at the end the following new subpara-  
2 graphs:

3           “(D) ‘The interest rate on this loan is  
4 much higher than most people pay. This means  
5 the chance that you will lose your home is much  
6 higher if you do not make all payments under  
7 the loan.’.

8           “(E) ‘You may be able to get a loan with  
9 a much lower interest rate. Before you sign any  
10 papers, you have the right to go see a credit  
11 and debt counseling service and to consult other  
12 lenders to find ways to get a cheaper loan.’.

13           “(F) ‘If you are taking out this loan to  
14 repay other loans, look to see how many months  
15 it will take to pay for this loan and what the  
16 total amount is that you will have to pay before  
17 this loan is repaid. Even though the total  
18 amount you will have to pay each month for  
19 this loan may be less than the total amount you  
20 are paying each month for those other loans,  
21 you may have to pay on this loan for many  
22 more months than those other loans which will  
23 cost you more money in the end.’”.



1 (b) PREPAYMENT PENALTY PROVISIONS.—Section  
2 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c))  
3 is amended to read as follows:

4 “(c) PREPAYMENT PENALTY PROVISIONS.—

5 “(1) NO PREPAYMENT PENALTIES AFTER END  
6 OF 24-MONTH PERIOD.—A mortgage referred to in  
7 section 103(aa) may not contain terms under which  
8 a consumer must pay any prepayment penalty for  
9 any payment made after the end of the 24-month  
10 period beginning on the date the mortgage is con-  
11 summated.

12 “(2) NO PREPAYMENT PENALTIES IF MORE  
13 THAN 3 PERCENT OF POINTS AND FEES WERE FI-  
14 NANCED.—Subject to subsection (1)(1), a mortgage  
15 referred to in section 103(aa) may not contain terms  
16 under which a consumer must pay any prepayment  
17 penalty for any payment made at or before the end  
18 of the 24-month period referred to in paragraph (1)  
19 if the creditor financed points or fees in connection  
20 with the consumer credit transaction in an amount  
21 equal to or greater than 3 percent of the total  
22 amount of credit extended in the transaction.

23 “(3) LIMITED PREPAYMENT PENALTY FOR  
24 EARLY REPAYMENT UNDER CERTAIN CIR-  
25 CUMSTANCES.—Subject to paragraph (2), the terms

1 of a mortgage referred to in section 103(aa) may  
2 contain terms under which a consumer must pay a  
3 prepayment penalty for any payment made at or be-  
4 fore the end of the 24-month period referred to in  
5 paragraph (1) to the extent the sum of total amount  
6 of points or fees financed by the creditor, if any, in  
7 connection with the consumer credit transaction and  
8 the total amount payable as a prepayment penalty  
9 does not exceed the amount which is equal to 3 per-  
10 cent of the total amount of credit extended in the  
11 transaction.

12 “(4) CONSTRUCTION.—For purposes of this  
13 subsection, any method of computing a refund of un-  
14 earned scheduled interest is a prepayment penalty if  
15 it is less favorable to the consumer than the actu-  
16 arial method (as that term is defined in section  
17 933(d) of the Housing and Community Development  
18 Act of 1992).

19 “(5) PREPAYMENT PENALTY DEFINED.—The  
20 term ‘prepayment penalty’ means any monetary pen-  
21 alty imposed on a consumer for paying all or part  
22 of the principal with respect to a consumer credit  
23 transaction before the date on which the principal is  
24 due.”.

1 (c) ALL BALLOON PAYMENTS PROHIBITED.—Section  
2 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e))  
3 is amended by striking “having a term of less than 5  
4 years”.

5 (d) ASSESSMENT OF ABILITY TO REPAY.—Section  
6 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h))  
7 is amended—

8 (1) by striking “CONSUMER.—A creditor” and  
9 inserting “CONSUMER.—

10 “(1) PROHIBITION ON PATTERNS AND PRAC-  
11 TICES.—A creditor”; and

12 (2) by adding at the end the following new  
13 paragraphs:

14 “(2) CASE-BY-CASE ASSESSMENTS OF CON-  
15 SUMER ABILITY TO PAY REQUIRED.—

16 “(A) IN GENERAL.—In addition to the pro-  
17 hibition in paragraph (1) on engaging in certain  
18 patterns and practices, a creditor may not ex-  
19 tend any credit in connection with any mort-  
20 gage referred to in section 103(aa) unless the  
21 creditor has determined, at the time such credit  
22 is extended, that 1 or more of the resident obli-  
23 gors, when considered individually and collec-  
24 tively, will be able to make the scheduled pay-  
25 ments under the terms of the transaction based

1 on a consideration of their current and expected  
2 income, current obligations, employment status,  
3 and other financial resources, without taking  
4 into account any equity of any such obligor in  
5 the dwelling which is the security for the credit.

6 “(B) REGULATIONS.—The Board shall  
7 prescribe, by regulation the appropriate format  
8 for determining a consumer’s ability to pay and  
9 the criteria to be considered in making any  
10 such determination.

11 “(C) RESIDENT OBLIGOR.—For purposes  
12 of this paragraph, the term ‘resident obligor’  
13 means an obligor for whom the dwelling secur-  
14 ing the extension of credit is, or upon the con-  
15 summation of the transaction will be, the prin-  
16 cipal residence.

17 “(3) VERIFICATION.—The requirements of  
18 paragraphs (1) and (2) shall not be deemed to have  
19 been met unless any information relied upon by the  
20 creditor for purposes of any such paragraph has  
21 been verified by the creditor independently of infor-  
22 mation provided by any resident obligor.”.

23 (e) REQUIREMENTS RELATING TO HOME IMPROVE-  
24 MENT CONTRACTS.—Section 129(i) of the Truth in Lend-  
25 ing Act (15 U.S.C. 1639(i)) is amended—

1           (1) by striking “IMPROVEMENT CONTRACTS.—  
2     A creditor” and inserting “IMPROVEMENT CON-  
3     TRACTS.—

4           “(1) IN GENERAL.—A creditor”; and

5           (2) by adding at the end the following new  
6     paragraph:

7           “(2) AFFIRMATIVE CLAIMS AND DEFENSES.—

8     Notwithstanding any other provision of law, any as-  
9     signee or holder, in any capacity, of a mortgage re-  
10    ferred to in section 103(aa) which was made, ar-  
11    ranged, or assigned by a person financing home im-  
12    provements to the dwelling of a consumer shall be  
13    subject to all affirmative claims and defenses which  
14    the consumer may have against the seller, home im-  
15    provement contractor, broker, or creditor with re-  
16    spect to such mortgage or home improvements.”.

17          (f) CLARIFICATION OF RESCISSION RIGHTS.—Sec-  
18    tion 129(j) of the Truth in Lending Act (15 U.S.C.  
19    1639(j)) is amended to read as follows:

20          “(j) CONSEQUENCE OF FAILURE TO COMPLY.—

21               “(1) IN GENERAL.—If, in the case of a mort-  
22    gage referred to in section 103(aa)—

23                   “(A) the mortgage contains a provision  
24                   prohibited by this section or does not contain a  
25                   provision required by this section; or

1           “(B) a creditor or other person fails to  
2           comply with the provisions of this section,  
3           whether by an act or omission, with regard to  
4           such mortgage at any time,  
5           the consummation of the consumer credit trans-  
6           action resulting in such mortgage shall be treated as  
7           a failure to deliver the material disclosures required  
8           under this title for the purpose of section 125.

9           “(2) RULE OF APPLICATION.—In any applica-  
10          tion of section 125 to a mortgage described in sec-  
11          tion 103(aa) under circumstances described in para-  
12          graph (1), paragraphs (2) and (4) of section 125(e)  
13          shall not apply or be taken into account.”.

14   **SEC. 4. ADDITIONAL REQUIREMENTS FOR HIGH COST CON-**  
15                   **SUMER MORTGAGES.**

16          (a) SINGLE PREMIUM CREDIT INSURANCE.—Section  
17   129 of the Truth in Lending Act (15 U.S.C. 1639) is  
18   amended—

19           (1) by redesignating subsections (k) and (l) as  
20          subsections (s) and (t), respectively; and

21           (2) by inserting after subsection (j), the fol-  
22          lowing new subsection:

23          “(k) SINGLE PREMIUM CREDIT INSURANCE.—

1           “(1) IN GENERAL.—The terms of a mortgage  
2           referred to in section 103(aa) may not require, and  
3           no creditor or other person may require or allow—

4                   “(A) the advance collection of a premium,  
5                   on a single premium basis, for any credit life,  
6                   credit disability, credit unemployment, or credit  
7                   property insurance, and any analogous product;  
8                   or

9                   “(B) the advance collection of a fee for any  
10                  debt cancellation or suspension agreement or  
11                  contract,

12           in connection with any such mortgage, whether such  
13           premium or fee is paid directly by the consumer or  
14           is financed by the consumer through such mortgage.

15           “(2) RULE OF CONSTRUCTION.—Paragraph (1)  
16           shall not be construed as affecting the right of a  
17           creditor to collect premium payments on insurance  
18           or debt cancellation or suspension fees referred to in  
19           paragraph (1) that are calculated and paid on a reg-  
20           ular monthly basis, if the insurance transaction is  
21           conducted separately from the mortgage transaction,  
22           the insurance may be canceled by the consumer at  
23           any time, and the insurance policy is automatically  
24           canceled upon repayment or other termination of the  
25           mortgage referred to in paragraph (1).”.

1 (b) RESTRICTION ON FINANCING POINTS AND  
2 FEES.—Section 129 of the Truth in Lending Act (15  
3 U.S.C. 1639) is amended by inserting after subsection (k)  
4 (as added by subsection (a) of this section) the following  
5 new subsection:

6 “(l) RESTRICTION ON FINANCING POINTS AND  
7 FEES.—

8 “(1) LIMIT ON AMOUNT OF POINTS AND FEES  
9 THAT MAY BE FINANCED.—Subject to paragraphs  
10 (2) and (3) of subsection (c), no creditor may, in  
11 connection with the formation or consummation of a  
12 mortgage referred to in section 103(aa), finance, di-  
13 rectly or indirectly, any portion of the points, fees,  
14 or other charges payable to the creditor or any third  
15 party in an amount in excess of the greater of 3 per-  
16 cent of the total loan amount or \$600.

17 “(2) PROHIBITION ON FINANCING CERTAIN  
18 POINTS, FEES, OR CHARGES.—No creditor may, in  
19 connection with the formation or consummation of a  
20 mortgage referred to in section 103(aa), finance, di-  
21 rectly or indirectly, any of the following fees or other  
22 charges payable to the creditor or any third party:

23 “(A) Any prepayment fee or penalty re-  
24 quired to be paid by the consumer in connection  
25 with a loan or other extension of credit which



1 is being refinanced by such mortgage if the  
2 creditor, with respect to such mortgage, or any  
3 affiliate of the creditor, is the creditor with re-  
4 spect to the loan or other extension of credit  
5 being refinanced.

6 “(B) Any points, fees, or other charges re-  
7 quired to be paid by the consumer in connection  
8 with such mortgage if—

9 “(i) the mortgage is being entered  
10 into in order to refinance an existing mort-  
11 gage of the consumer that is referred to in  
12 section 103(aa); and

13 “(ii) if the creditor, with respect to  
14 such new mortgage, or any affiliate of the  
15 creditor, is the creditor with respect to the  
16 existing mortgage which is being refi-  
17 nanced.”.

18 (c) CREDITOR CALL PROVISION.—Section 129 of the  
19 Truth in Lending Act (15 U.S.C. 1639) is amended by  
20 inserting after subsection (l) (as added by subsection (b)  
21 of this section) the following new subsection:

22 “(m) CREDITOR CALL PROVISION.—

23 “(1) IN GENERAL.—A mortgage referred to in  
24 section 103(aa) may not include terms under which

1 the indebtedness may be accelerated by the creditor,  
2 in the creditor's sole discretion.

3 “(2) EXCEPTION.—Paragraph (1) shall not  
4 apply when repayment of the loan has been acceler-  
5 ated as a result of a bona fide default.”.

6 (d) PROHIBITION ON ACTIONS ENCOURAGING DE-  
7 FAULT.—Section 129 of the Truth in Lending Act (15  
8 U.S.C. 1639) is amended by inserting after subsection (m)  
9 (as added by subsection (c) of this section) the following  
10 new subsection:

11 “(n) PROHIBITION ON ACTIONS ENCOURAGING DE-  
12 FAULT.—No creditor may make any statement, take any  
13 action, or fail to take any action before or in connection  
14 with the formation or consummation of any mortgage re-  
15 ferred to in section 103(aa) to refinance all or any portion  
16 of an existing loan or other extension of credit, if the state-  
17 ment, action, or failure to act has the effect of encour-  
18 aging or recommending the consumer to default on the  
19 existing loan or other extension of credit at any time be-  
20 fore, or in connection with, the closing or any scheduled  
21 closing on such mortgage.”.

22 (e) MODIFICATION OR DEFERRAL FEES.—Section  
23 129 of the Truth in Lending Act (15 U.S.C. 1639) is  
24 amended by inserting after subsection (n) (as added by

1 subsection (d) of this section) the following new sub-  
2 section:

3 “(o) MODIFICATION OR DEFERRAL FEES.—

4 “(1) IN GENERAL.—Except as provided in para-  
5 graph (2), a creditor may not charge any consumer  
6 with respect to a mortgage referred to in section  
7 103(aa) any fee or other charge—

8 “(A) to modify, renew, extend, or amend  
9 such mortgage, or any provision of the terms of  
10 the mortgage; or

11 “(B) to defer any payment otherwise due  
12 under the terms of the mortgage.

13 “(2) EXCEPTION FOR MODIFICATIONS FOR THE  
14 BENEFIT OF THE CONSUMER.—Paragraph (1) shall  
15 not apply with respect to any fee imposed in connec-  
16 tion with any action described in subparagraph (A)  
17 or (B) if—

18 “(A) the action provides a material benefit  
19 to the consumer; and

20 “(B) the amount of the fee or charge does  
21 not exceed—

22 “(i) an amount equal to 0.5 percent of  
23 the total loan amount; or

24 “(ii) in any case in which the total  
25 loan amount of the mortgage does not ex-

1                   ceed \$60,000, an amount in excess of  
2                   \$300.”.

3           (f) CONSUMER COUNSELING REQUIREMENTS.—Sec-  
4   tion 129 of the Truth in Lending Act (15 U.S.C. 1639)  
5   is amended by inserting after subsection (o) (as added by  
6   subsection (e) of this section) the following new sub-  
7   section:

8           “(p) CONSUMER COUNSELING REQUIREMENT.—

9                   “(1) IN GENERAL.—A creditor may not extend  
10   any credit in the form of a mortgage referred to in  
11   section 103(aa) to any consumer, unless the creditor  
12   has provided to the consumer, at such time before  
13   the consummation of the mortgage and in such man-  
14   ner as the Board shall provide by regulation, all of  
15   the following:

16                   “(A) All warnings and disclosures regard-  
17   ing the risks of the mortgage to the consumer.

18                   “(B) A separate written statement recom-  
19   mending that the consumer take advantage of  
20   available home ownership or credit counseling  
21   services before agreeing to the terms of any  
22   mortgage referred to in section 103(aa).

23                   “(C) A written statement containing the  
24   names, addresses, and telephone numbers of  
25   counseling agencies or programs reasonably

1           available to the consumer that have been cer-  
2           tified or approved by the Secretary of Housing  
3           and Urban Development, a State housing fi-  
4           nance authority (as defined in section 1301 of  
5           the Financial Institutions Reform, Recovery,  
6           and Enforcement Act of 1989), or the agency  
7           referred to in subsection (a) or (c) of section  
8           108 with jurisdiction over the creditor as quali-  
9           fied to provide counseling on—

10                   “(i) the advisability of a high cost  
11                   loan transaction; and

12                   “(ii) the appropriateness of a high  
13                   cost loan for the consumer.

14           “(B) COMPLETE AND UPDATED LISTS RE-  
15           QUIRED.—Any failure to provide as complete or up-  
16           dated a list under paragraph (1)(C) as is reasonably  
17           possible shall constitute a violation of this section.”.

18           (g) ARBITRATION.—Section 129 of the Truth in  
19           Lending Act (15 U.S.C. 1639) is amended by inserting  
20           after subsection (p) (as added by subsection (f) of this  
21           section) the following new subsection:

22                   “(q) ARBITRATION.—

23                   “(1) IN GENERAL.—A mortgage referred to in  
24                   section 103(aa) may not include terms which require  
25                   arbitration or any other nonjudicial procedure as the

1 method for resolving any controversy or settling any  
2 claims arising out of the transaction.

3 “(2) POST-CONTROVERSY AGREEMENTS.—Sub-  
4 ject to paragraph (3), paragraph (1) shall not be  
5 construed as limiting the right of the consumer and  
6 the creditor to agree to arbitration or any other non-  
7 judicial procedure as the method for resolving any  
8 controversy at any time after a dispute or claim  
9 under the transaction arises.

10 “(3) NO WAIVER OF STATUTORY CAUSE OF AC-  
11 TION.—No provision of any mortgage referred to in  
12 section 103(aa) or any agreement between the con-  
13 sumer and the creditor shall be applied or inter-  
14 preted so as to bar a consumer from bringing an ac-  
15 tion in an appropriate district court of the United  
16 States, or any other court of competent jurisdiction,  
17 pursuant to section 130 or any other provision of  
18 law, for damages or other relief in connection with  
19 any alleged violation of this section, any other provi-  
20 sion of this title, or any other Federal law.”.

21 (h) PROHIBITION ON EVASIONS.—Section 129 of the  
22 Truth in Lending Act (15 U.S.C. 1639) is amended by  
23 inserting after subsection (q) (as added by subsection (g)  
24 of this section) the following new subsection:

1       “(r) PROHIBITIONS ON EVASIONS, STRUCTURING OF  
2 TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—

3           “(1) IN GENERAL.—A creditor may not take  
4 any action—

5           “(A) for the purpose or with the intent to  
6 circumvent or evade any requirement of this  
7 title, including entering into a reciprocal ar-  
8 rangement with any other creditor or affiliate of  
9 another creditor or dividing a transaction into  
10 separate parts, for the purpose of evading or  
11 circumventing any such requirement; or

12           “(B) with regard to any other loan or ex-  
13 tension of credit for the purpose or with the in-  
14 tent to evade the requirements of this title, in-  
15 cluding structuring or restructuring a consumer  
16 credit transaction as another form of loan, such  
17 as a business loan.

18           “(2) OTHER ACTIONS.—In addition to the ac-  
19 tions prohibited under paragraph (1), a creditor may  
20 not take any action which the Board determines, by  
21 regulation, constitutes a bad faith effort to evade or  
22 circumvent any requirement of this section with re-  
23 gard to a consumer credit transaction.

24           “(3) REGULATIONS.—The Board shall prescribe  
25 such regulations as the Board determines to be ap-

1       appropriate to prevent circumvention or evasion of the  
2       requirements of this section or to facilitate compli-  
3       ance with the requirements of this section.”.

4   **SEC. 5. AMENDMENTS RELATING TO RIGHT OF RESCIS-**  
5                   **SION.**

6       (a) TIMING OF WAIVER BY CONSUMER.—Section  
7   125(a) of the Truth in Lending Act (15 U.S.C. 1635(a))  
8   is amended—

9           (1) by striking “(a) Except as otherwise pro-  
10   vided” and inserting “(a) RIGHT ESTABLISHED.—

11           “(1) IN GENERAL.—Except as otherwise pro-  
12   vided”; and

13           (2) by adding at the end the following new  
14   paragraph:

15           “(2) TIMING OF ELECTION OF WAIVER BY CON-  
16   SUMER.—No election by a consumer to waive the  
17   right established under paragraph (1) to rescind a  
18   transaction shall be effective if—

19           “(A) the waiver was required by the cred-  
20   itor as a condition for the transaction;

21           “(B) the creditor advised or encouraged  
22   the consumer to waive such right of the con-  
23   sumer; or

24           “(C) the creditor had any discussion with  
25   the consumer about a waiver of such right dur-



1           ing the period beginning when the consumer  
2           provides written acknowledgement of the receipt  
3           of the disclosures and the delivery of forms and  
4           information required to be provided to the con-  
5           sumer under paragraph (1) and ending at such  
6           time as the Board determines, by regulation, to  
7           be appropriate.”.

8           (b) NONCOMPLIANCE WITH REQUIREMENTS AS  
9           RECOUPMENT IN FORECLOSURE PROCEEDING.—Section  
10          130(e) of the Truth in Lending Act (15 U.S.C. 1640(e))  
11          is amended by inserting after the 2d sentence the following  
12          new sentence: “This subsection also does not bar a person  
13          from asserting a rescission under section 125, in an action  
14          to collect the debt as a defense to a judicial or nonjudicial  
15          foreclosure after the expiration of the time periods for af-  
16          firmative actions set forth in this section and section  
17          125.”.

18          **SEC. 6. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.**

19           (a) INCREASE IN AMOUNT OF CIVIL MONEY PEN-  
20          ALTIES FOR CERTAIN VIOLATIONS.—Section 130(a) of  
21          the Truth in Lending Act (15 U.S.C. 1640) is amended—  
22                  (1) in (2)(A)(iii), by striking “\$2,000” and in-  
23          serting “\$10,000”; and

1           (2) in paragraph (2)(B), by striking “ lesser of  
2       \$500,000 or 1 percentum of the net worth of the  
3       creditor” and inserting “the greater of—

4                       “(i) the amount determined by multi-  
5                       plying the maximum amount of liability  
6                       under subparagraph (A) for such failure to  
7                       comply in an individual action by the num-  
8                       ber of members in the certified class; or

9                       “(ii) the amount equal to 2 percent of  
10                      the net worth of the creditor.”.

11       (b) STATUTE OF LIMITATIONS EXTENDED FOR SEC-  
12       TION 129 VIOLATIONS.—Section 130(e) of the Truth in  
13       Lending Act (15 U.S.C. 1640(e)) (as amended by section  
14       5(b) of this Act) is amended—

15               (1) in the 1st sentence, by striking “Any ac-  
16       tion” and inserting “Except as provided in the sub-  
17       sequent sentence, any action”; and

18               (2) by inserting after the 1st sentence the fol-  
19       lowing new sentence: “Any action under this section  
20       with respect to any violation of section 129 may be  
21       brought in any United States district court, or in  
22       any other court of competent jurisdiction, before the  
23       end of the 3-year period beginning on the date of the  
24       occurrence of the violation.”.

1 **SEC. 7. AMENDMENT TO FAIR CREDIT REPORTING ACT.**

2 Section 623 of the Fair Credit Reporting Act (15  
3 U.S.C. 1681s-2) is amended by adding at the end the fol-  
4 lowing new subsection:

5 “(e) DUTY OF CREDITORS WITH RESPECT TO HIGH  
6 COST MORTGAGES.—

7 “(1) IN GENERAL.—Each creditor who enters  
8 into a consumer credit transaction which is a mort-  
9 gage referred to in section 103(aa), and each suc-  
10 cessor to such creditor with respect to such trans-  
11 action, shall report the complete payment history,  
12 favorable and unfavorable, of the obligor with re-  
13 spect to such transaction to a consumer reporting  
14 agency that compiles and maintains files on con-  
15 sumers on a nationwide basis at least quarterly, or  
16 more frequently as required by regulation or in  
17 guidelines established by participants in the sec-  
18 ondary mortgage market, while such transaction is  
19 in effect.

20 “(2) DEFINITIONS.—For purposes of paragraph  
21 (1), the terms ‘credit’ and ‘creditor’ have the same  
22 meanings as in section 103.”.

23 **SEC. 8. REGULATIONS.**

24 The Board of Governors of the Federal Reserve Sys-  
25 tem shall publish regulations implementing this Act, and  
26 the amendments made by this Act, in final form before

- 1 the end of the 6-month period beginning on the date of
- 2 the enactment of this Act.